



MISSION STATEMENT:

The mission of the agency is to provide services to people in need by optimizing all available resources to sustain the family unit, and to encourage traditional family values, thereby promoting self-sufficiency and personal responsibility for all Mississippians.

CHILD SUPPORT ENFORCEMENT

- Approximately, 295,000 cases
Of those, how many NCP's are incarcerated?
- Our tasks set forth by Section 43
 - Specifically §43-19-35
- How does a case open and work its way through the system?

HOW CHILD SUPPORT WORKS

- Paternity Establishment
 - ASAP
 - DNA
 - Court Order
- Guidelines Amounts in establishing support (Section 43-19-101)
 - One child – 14%
 - Two children – 20%
 - Three children – 22%
 - Four children – 24%
 - Five or more children – 26%
- Imputed Minimum Wage

HOW CHILD SUPPORT WORKS

- Wage withholding
 - Occasional contempt actions against employers
- Enforcement mechanisms
 - State license suspensions
 - Passport seizures
 - Bank account freeze
 - Workers compensation and Personal Injury Settlement interceptions
 - Reporting to the Credit Bureau

HOW CHILD SUPPORT WORKS

- Age of Emancipation in Mississippi
 - 21 years of age
 - Automatic or Discretionary Emancipation (93-11-65)
 - Automatic
 - Child joins the military, gets married, turns 21, or is convicted of a felony and is sentenced to incarceration of two (2) or more years
 - Discretionary
 - A judge can emancipate the child if the minor child leaves school and works full-time, has a baby, etc.

CHILD SUPPORT AND INCARCERATED DEFENDANTS

- §43-19-34(4) expressly prohibits a retroactive downward modification, and the Supreme Court has held that retroactive suspensions or retroactive terminations are considered retroactive downward modifications (A.M.L. v. J.W.L., 98 So.3d 1001 (Miss. 2012))
- This argument also applies to “giving credit” off of arrears for time a Defendant served in prison.

CHILD SUPPORT AND INCARCERATED DEFENDANTS

- Child support does not automatically stop when a Defendant becomes incarcerated.
 - *Avery v. Avery*, 864 So. 2D 1054 (Miss. Ct. App. 2004): In *Avery*, the Chancellor found that the Defendant had no income due to incarceration, but also no expenses since his room, board, and healthcare were provided by the State. In this case, the Defendant was found to have sufficient assets to justify his child support obligations continuing despite his incarceration. The Chancellor was affirmed
 - *Christian v. Wheat*, 876 So.2d 341 (2004): This Chancellor suspended the Defendant's child support obligations while the Defendant was incarcerated.

CHILD SUPPORT AND INCARCERATED DEFENDANTS

- Common approach by the court
 - Incarceration would meet the standard of a “substantial and material change in circumstances” that would warrant a modification, should the Defendant petition the Court upon incarceration.

CHILD SUPPORT AND INCARCERATED DEFENDANTS

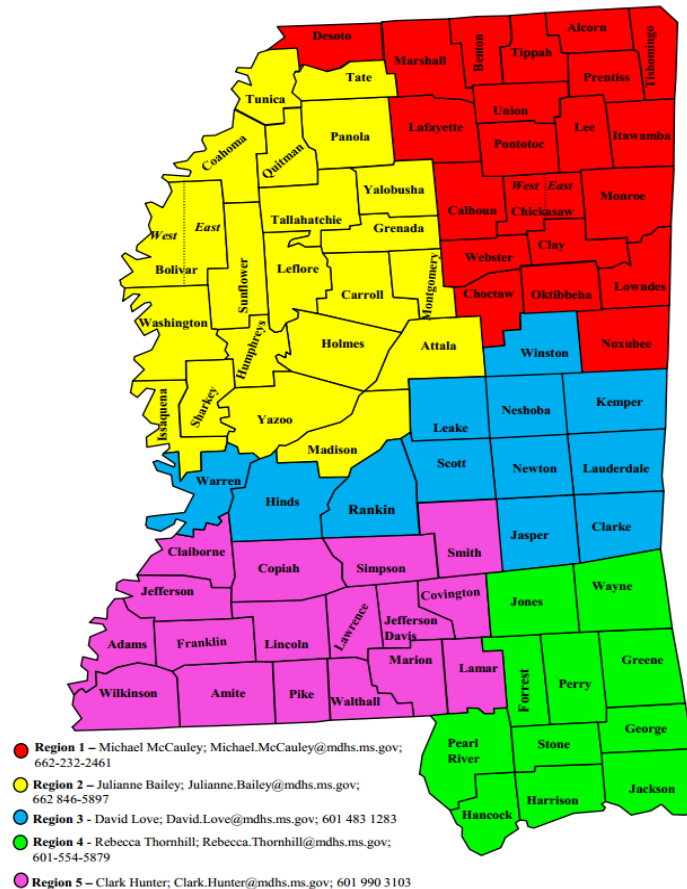
- So where does that leave Defendants?
 - You can only stop future child support obligations, not past ones. Those are considered vested and unalterable. Defendants should petition the court as soon as possible upon incarceration to stop their support while incarcerated.

POSSIBLE SOLUTIONS

- AP Petitions in some counties
 - Many counties have AP petitions, which allow Defendants to directly and affordably petition the court *pro se* to have their child support issues addressed by the court.
- Other counties
 - Agreed suspension orders

OUR FOUR LEGAL REGIONS

LEGAL REGIONS MAP



Questions?

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